

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERTO SALDANA, JR.,  
Petitioner,  
v.  
M.E. SPEARMAN, warden,  
Respondent.

No. 1:21-cv-01733-HBK  
ORDER REQUIRING PETITIONER TO  
SUBMIT SIGNED DECLARATION

TWENTY-ONE DAY DEADLINE

On November 22, 2021, Petitioner filed a petition for writ of habeas corpus. (Doc. No. 1). Upon a close examination of the petition submitted to the Court, the Court has discovered that the petition does not contain an original signature. Petitioner will be granted an opportunity to cure this deficiency.

**DISCUSSION**

Rule 4 of the Rules Governing § 2254 Cases requires the Court to make a preliminary review of each petition for writ of habeas corpus. The Court must dismiss a petition "[i]f it plainly appears from the petition . . . that the petitioner is not entitled to relief." Rule 4 of the Rules Governing § 2254 Cases; *see also Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990). A petition for habeas corpus should not be dismissed without leave to amend unless it appears that no tenable claim for relief can be pleaded were such leave granted. *Jarvis v. Nelson*, 440 F.2d 13, 14 (9th Cir. 1971).

1 Rule 11 requires all pleadings, written motions, and other papers be signed by at least one  
2 attorney of record or by a party personally if the party is unrepresented. Fed. R. Civ. P. 11(a);  
3 Local Rule 131(b). In addition, Rule 2 of the Rules Governing Section 2254 Cases requires a  
4 petition for writ of habeas corpus to “be signed under penalty of perjury by the petitioner.”

5           In light of the difficulty in having Petitioner submit a new habeas corpus petition,  
6 Petitioner is ORDERED to submit a document stating that he submitted the instant petition to the  
7 Court and sign it under penalty of perjury. The document should contain an original signature.  
8 Petitioner is GRANTED twenty-one (21) days from the date of service of this order to comply  
9 with the Court's directive.

10 Petitioner is forewarned that failure to comply with a Court order will result in dismissal  
11 of the petition pursuant to Local Rule 110.

## ORDER

13           Accordingly, Petitioner is GRANTED **twenty-one days (21)** from the date of service of  
14 this order in which to SUBMIT a document stating that he submitted the instant petition to the  
15 Court and sign it under penalty of perjury.

16 Failure to comply with this Order will result in a recommendation that the petition be  
17 dismissed.

Dated: January 20, 2022

Helena M. Barch-Kuchta  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE